

REMARKS/ARGUMENTS

Claims 1, 3, 4, 6, 8, and 9 are pending.

In the Office Action of April 16, 2009, Claims 1, 3, 4, 8, and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,726,744 to Arnold in view of U.S. Patent No. 3,707,750 to Klass. Claim 6 was rejected as being unpatentable over Arnold and Klass and further in view of U.S. Patent No. 3,038,698 to Troyer.

Response to Rejections Under 35 U.S.C. 103(a)

Claim 1 is drawn to a variable nozzle device that comprises:

an annular nozzle passage formed by a gap between two opposing wall members; and

at least one vane extending in said nozzle passage and being rotatably supported by a shaft attached to said vane, wherein said vane includes a sheet metal contour formed by wrapping a strip of sheet metal so as to form said contour as a loop *about a portion of said shaft*, said sheet metal contour being affixed to an outer peripheral portion of said shaft, wherein a further portion of said shaft protrudes beyond an edge of said sheet metal contour by a predetermined amount so as to form *a stepped portion contactable with one of said opposing wall members, thereby separating said sheet metal contour from said one of said opposing wall members.*

It is respectfully submitted that the cited references do not teach or suggest the variable nozzle device according to amended Claim 1. In particular, Claim 1 requires that the strip of sheet metal forming the sheet metal contour is wrapped in a loop *about a portion of the shaft* and

is affixed to an outer peripheral portion of the shaft. Thus, the shaft passes through the loop of sheet metal, and the loop is affixed to the outer peripheral portion of the shaft.

Neither Arnold nor Klass teaches or suggests these aspects of Claim 1. Klass fails to disclose any shaft passing through the loop of sheet metal, and fails to disclose affixing the sheet metal loop to the outer peripheral portion of a shaft.

Arnold in Figure 4 discloses what appears to be a *solid* vane 36 having a shaft 38. Thus, the *end face* of the shaft 38 is affixed to the end face of the vane. Nothing in Arnold would have suggested a shaft passing through a sheet metal loop that forms a vane, as claimed.

Additionally, Claim 1 requires that a further portion of the shaft protrude beyond an edge of said sheet metal contour *by a predetermined amount* so as to form a *stepped portion contactable with one of said opposing wall members, thereby separating said sheet metal contour from said one of said opposing wall members*. In Applicant's application, this claimed stepped portion is exemplified by the extension portion of the shaft having the axial end surface 21 in Figure 3.

The Office Action asserted that item 40 in Arnold corresponds to the claimed stepped portion. However, this is incorrect. Nowhere does Arnold disclose or suggest that item 40 protrudes beyond an edge of the vane by a predetermined amount. Furthermore, nowhere does Arnold disclose or suggest that item 40 contacts one of the opposing wall members forming the nozzle passage so as to separate the vane from said wall member.

Therefore, it is submitted that Claim 1 is patentable over Arnold and Klass, as well as the other prior art of record. Claims 3, 4, 6, 8, and 9, which depend from and thus include the limitations of Claim 1, are therefore also patentable for at least the same reasons given above for Claim 1.

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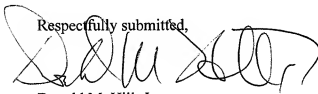
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Conclusion

Based on the above remarks, it is submitted that the pending claims are patentable and the application is in condition for allowance.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Donald M. Hill, Jr.', is written over the typed name.

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